

<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

nausea, and shortness of breath were an adverse reaction to an environmental condition. He claimed that he experienced symptoms when he was laying on bunk bed under a ventilation exhaust fan.

By correspondence dated August 21, 2015, OWCP informed appellant that the evidence of record was insufficient to establish his occupational disease claim. Appellant was advised as to the medical and factual evidence required and afforded 30 days to provide this information.

Additional evidence was received by OWCP in support of appellant's occupational disease claim. In a July 27, 2015 report, Dr. Hector Ramirez, a family practitioner, noted a history of dyspnea and reported no evidence of acute cardiopulmonary disease. A July 27, 2015 emergency physician's record noted appellant's chief complaint as shortness of breath, provided examination findings, noted a past history of asthma, and diagnosed shortness of breath and acute exacerbation of asthma.<sup>2</sup>

In an August 20, 2015 statement, appellant related that while on a temporary-duty assignment in Texas on July 27, 2015, he experienced shortness of breath and nausea at approximately 1:00 a.m. He was laying on the top bunk bed directly under a ventilation exhaust fan. Appellant stated that he had a prior instance of shortness of breath in 2014 when he was detailed to McAllen, Texas. He related that these were the only times he experienced these symptoms.

A July 27, 2015 authorization for examination and treatment (Form CA-16) was completed by Erik Finkeinburg, an employing establishment official. Mr. Finkeinburg noted an injury date of July 27, 2015 and listed nausea and shortness of breath as the injury or disease. He approved treatment for the effects of the listed conditions. On the second page of this form, Part B -- Attending Physician's Report, dated July 29, 2015 a diagnosis of shortness of breath was noted. Appellant was released to return to work on July 29, 2015.<sup>3</sup>

By decision dated January 11, 2016, OWCP denied appellant's claim, as he had failed to establish fact of injury. Specifically, it found that it was unclear what employment factors caused his condition. OWCP also found that appellant failed to submit medical evidence containing a diagnosis in connection with an employment injury or incident.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of establishing by the weight of the reliable, probative, and substantial evidence that his condition is causally related to factors of his federal employment. Where an employee is on a temporary-duty assignment away from his regular place of employment, he is covered by FECA 24 hours a day with respect to any injury that results from activities essential or incidental to his temporary assignment.<sup>4</sup>

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<sup>2</sup> The provider's signature on the form is illegible.

<sup>3</sup> The signature on the form was illegible. (RD 8/21/2015)

<sup>4</sup> *Susan A. Filkins*, 57 ECAB 630 (2006); *Cherie Hutchings*, 39 ECAB 639 (1988).

However, the fact that an employee is on a special mission or in travel status during the time a disabling condition manifests itself does not raise an inference that the condition is causally related to the incidents of the employment. A condition that occurs spontaneously during a special mission or in travel status is not compensable.<sup>5</sup> The medical evidence must establish a causal relationship between the condition and factors of employment.<sup>6</sup> Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence. Such opinion of the physician must be one of reasonable medical certainty and must be supported by medical reasoning explaining the nature of the relationship between the diagnosed condition and the employment.<sup>7</sup>

### **ANALYSIS**

Appellant filed an occupational disease claim alleging that his nausea, vomiting, and shortness of breath were employment related. He explained that while on temporary duty in Texas he experienced these symptoms when he lay on the top bunk of a bed, directly under a ventilation fan. OWCP denied his claim as it found that the factual evidence was insufficient to identify an employment factor. It also found the medical evidence insufficient to establish a medical condition causally related to identified employment factors. The issue on appeal is whether appellant has established that he sustained an occupational disease in the performance of duty. The Board finds he has failed to meet his burden of proof.

The evidence establishes that appellant was on temporary-duty status when he experienced nausea and shortness of breath. However a spontaneous occurrence of a medical condition is not compensable, even if it occurs during a temporary-duty assignment.<sup>8</sup> Appellant has not submitted the necessary medical evidence to establish that he sustained a diagnosed medical condition causally related to his temporary-duty assignment. Dr. Ramirez offered no opinion regarding causal relationship of a diagnosed condition. Lacking an opinion regarding causal relationship, his report is of no probative value.<sup>9</sup> The other medical report of record bore an illegible signature, and no opinion regarding causal relationship. Medical reports lacking proper identification do not constitute probative medical evidence.<sup>10</sup> There is simply no medical evidence of record that discusses the medical cause of appellant's alleged condition. Appellant has therefore failed to meet his burden of proof.<sup>11</sup> An award of compensation may not be based on surmise, conjecture, speculation, or on the employee's own belief of causal relation.<sup>12</sup>

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<sup>5</sup> *Y.H.*, Docket No. 09-1271 (issued January 5, 2010).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *J.G.*, Docket No. 15-1468 (issued October 7, 2015).

<sup>10</sup> *R.M.*, 59 ECAB 690 (2008).

<sup>11</sup> *Id.*

<sup>12</sup> *S.S.*, 59 ECAB 315 (2008).

The Board notes that the record contains a July 27, 2015 Form CA-16 noting a July 27, 2015 injury date. The form was signed by Mr. Finkeinburg authorizing medical treatment. Where the employing establishment authorizes treatment of a job-related injury by providing the employee a properly executed CA-16 form,<sup>13</sup> OWCP is under contractual obligation to pay for the medical expenses.<sup>14</sup>

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant failed to meet his burden of proof to establish an occupational disease in the performance of duty.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated January 11, 2016 is affirmed.

Issued: June 2, 2016  
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>13</sup> See *Val D. Wynn*, 40 ECAB 666 (1989); see also Federal (FECA) Procedure Manual, Part 3 -- Medical, *Authorizing Examination and Treatment*, Chapter 3.300.3(a)(3) (February 2012).

<sup>14</sup> 5 U.S.C. § 8103; 20 C.F.R. § 10.304. See *L.B.*, Docket No. 10-469 (issued June 2, 2010); see also Federal (FECA) Procedure Manual, *id.*